UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/828,331 | 04/21/2004 | Osamu Okumura | 038959.02 | 4236 |

25944 7590 07/27/2006

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

| EXAMINER | |
|---|---|
| TON, MINH TOAN T | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2871 | |

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/828,331 | OKUMURA ET AL. | |
| | Examiner | Art Unit | |
| | Toan Ton | 2871 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *16 May 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 6-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakazawa et al (US 5736278).

Nakazawa discloses a reflective type color liquid crystal device comprising (see at least Figures 3-5): a plurality of pixel electrodes corresponding to a plurality of dots; a plurality of color filters (11,12,13), a color filter being arranged to correspond to each of the plurality of dots, the color filters being shaped so that individual dots of the plurality of dots include a light-transmitting area having a color filter and light-transmitting area having no color filter, light-transmitting areas (e.g., 4) having no color filter in adjacent dots being separated by an area having no color filter.

Nakazawa discloses the layers are formed in the areas between the dot areas (see at least Figures 3-5). Nakazawa discloses at least one color filter (e.g., 11, 12, 13) continuously extending beyond the area of each the plurality of dots (see at least Figures 3-5, the color filter partially overlapping the black matrix).

Nakazawa discloses the color filters (11, 12, 13) separated from each other by a substantially uniform pitch (see at least Figures 3-5).

Nakazawa discloses the layers including acryl or polyamide (col. 8, 2nd paragraph).

The dot (liquid crystal displaying pixel) areas are inherently the light-variable areas, which make transmissivity of the liquid crystal layer possible to vary by applying the voltage between the first electrode and the second electrode.

Nakazawa discloses color filters provided only on a part of the light-variable areas in each dot area, each color filter partially formed substantially in the middle of one dot area (see at least Figures 3-5).

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakazawa et al as applied to claims 1-4 and 6-12 above.

Nakazawa discloses the color liquid crystal device comprising the thickness of the color filter and the thickness of the layer being different (see at least Figures 3-4). Therefore, it would have been at least obvious to one of ordinary skill in the art at the time the invention was made to employ a particular thickness for the color filter and the transparent layer for advantages such as high quality color display device.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 30-45 and 55-79 of copending Application No. 10/995176. Although the conflicting claims are not identical, they are not patentably distinct from each other because both comprise at least similar and overlapping subject matter such as a dot area formed at an overlapping portion of the first electrode and the second electrode, a color filter arranged in a section of the dot area, a layer arranged in another section of the dot area in which no color filter is arranged, the layer being transparent.

Claims 1-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 30-31, 33, 37-38, 49-78 of copending Application No. 09/671354. Although the conflicting claims are not identical, they are not patentably distinct from each other because both comprise at least similar and overlapping subject matter such as a dot area formed at an overlapping portion of the first electrode and the second electrode, a color filter arranged in a section of the dot area, a layer arranged in another section of the dot area in which no color filter is arranged, the layer being transparent.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Contact Information***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan Ton whose telephone number is (571) 272-2303.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 24, 2006

TOAN TON
PRIMARY EXAMINER